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Assembly California Legislature



JARED HUFFMAN
ASSEMBLYMEMBER, SIXTH DISTRICT

COMMITTEES
CHAIR, ENVIRONMENTAL
SAFETY AND TOXIC MATERIALS
APPROPRIATIONS
UTILITIES AND COMMERCE
WATER, PARKS AND WILDLIFE

February 4, 2009

Bay Conservation and Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111
Attn: Karen Wolowicz, Permit Analyst
FAX (415) 352-3606
Karenw@bcdcc.ca.gov

Dear Chairman Randolph and Commissioners:

I am writing to thank the Commission for the resolve it showed at the last hearing on the Department of Corrections and Rehabilitation's (CDCR) permit for the construction of a new condemned inmate complex (CIC) at San Quentin. Specifically, and despite some blatant scare tactics and misrepresentations by CDCR, the Commission held firm in defense of important public trust values and did not approve the permit at that hearing. Today, the Commission will take up the same issue and will undoubtedly face similar threats and intimidation from CDCR, which is rushing to break ground on this ill-conceived project before it can be stopped by the legislature.

I urge you to hold firm once again, to focus on the irreparable impacts and permanent losses to public access and to the San Francisco Bay environment resulting from this project, and to deny the permit.

Although CDCR has stubbornly pushed the CIC project and refused to consider *any* alternative strategies for meeting death row housing needs, in reality there are other (and better) ways to house condemned inmates – including but not limited to better utilization of the San Quentin property, incorporating condemned inmate housing into one or more of the new facilities CDCR will be building around the state to address other deficiencies in our prison system, and simply integrating some condemned inmates into the general populations of other prisons – an option that the outgoing Warden at San Quentin says would easily work for at least 60% of the death row population. CDCR has many options, but we have only one San Francisco Bay.

My letter dated January 15 outlines some of the permanent impacts of the CIC project and some of the reasons BCDC commissioners should, regardless of the staff recommendation, exercise your broad resource protection authority and deny this permit. To reiterate, the CIC project includes the following substantial long-term, negative



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impacts on the environment and the public's use and enjoyment of San Francisco Bay, including:

- Permanent loss of public access, recreational opportunities and esthetic damage;
- Permanent loss of an ideal ferry terminal location with the potential for a world-class ferry/rail transit hub at the western edge of the San Quentin property, a site long identified as perhaps the best deep-water ferry terminal location on the entire San Francisco Bay;
- Continuation of harmful and expensive annual dredging of the Corte Madera Creek channel to maintain the current inferior ferry location;
- Continuation of greenhouse gas and other harmful emissions due to ferries traveling extra distance and slowing down to reduce wake for the final five minutes of the ride;
- Continuation of wetland degradation and foreclosure of wetland restoration possibilities;
- Global warming impacts that have never been considered, much less addressed, in connection with this project; and
- Perhaps most clearly and the most legally unassailable ground for denial of the permit, CDCR's proposed "in lieu" payments for the loss of public access at this incredible location – even if CDCR (falsely) represents to you that it has "authority" to increase the amount up to \$1.5 million¹ is woefully inadequate and would still be at the very low end of BCDC precedents for in-lieu public access payments.

Obviously, the Commission cannot dictate how CDCR meets its inmate housing needs; however, as the guardian of San Francisco Bay and our precious bay shore resources, BCDC can require CDCR to design the project in a way that avoids or minimizes loss of public access and harm to San Francisco Bay, and that doesn't permanently foreclose a golden opportunity to improve the environment and the public's use and enjoyment of the Bay in the years ahead.

Toward that end, I urge you not to be intimidated by CDCR's threats and pressure tactics, including the incredible claim that the department will simply "re-design" the project to avoid BCDC jurisdiction. CDCR cannot do this – they don't have the funding for any additional design work; all of the previous environmental planning and review would be

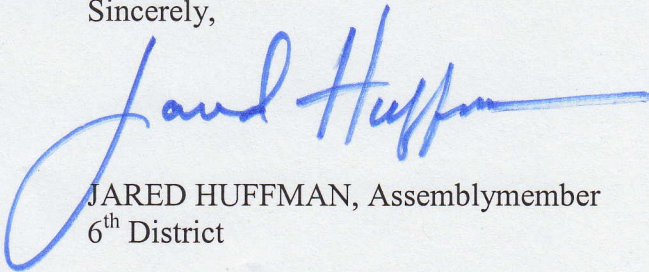
¹ We are informed CDCR may claim that the Governor's office granted some kind of "authority" for the department to offer an additional \$500K toward the in-lieu payment. It is important to understand that any additional expenditures on this project must have legislative authorization, which does not currently exist. According to the state auditor, the projected cost of the project already exceeds existing legislative authorization, so neither the Governor nor CDCR can promise additional in-lieu payments. For these reasons, the Commission should not be swayed by the vague and unenforceable commitments from CDCR about additional in-lieu payments. Simply put, CDCR cannot legally or enforceably make such commitments at this time.

re-opened if any material changes to the project were made; and there is no way for them to avoid BCDC jurisdiction for necessary project components like the storm water outfall. The reason CDCR is making such threats is that if you exercise your public trust responsibility the way we are urging you to do, they will have no choice but to come back to the legislature and work with us on a smarter, more cost-effective, and more environmentally responsible condemned inmate housing strategy.

Finally, although it is not the Commission's job to solve the state's critical financial problems, it bears noting that by preventing CDCR from irrevocably committing the state to costs that will exceed \$1.6 billion over the next eleven years on a project that won't even solve the state's condemned inmate housing challenge, BCDC would be giving the legislature and the public time to find better and more cost effective solutions. As California reels from the worst fiscal crisis in our history, and with meritorious projects and essential safety net services being interrupted throughout the state due to our fiscal crisis, it is important to remember that CDCR's agenda of rushing forward to break ground on a wrong-headed project should not be the agenda of BCDC or anyone else who cares about the broader public interest.

Thank you for your thoughtful consideration. If my office can be of any assistance going forward, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, reading "Jared Huffman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

JARED HUFFMAN, Assemblymember
6th District